Union Calendar No. 214

106TH CONGRESS
1ST SESSION

H. R. 2130

[Report No. 106–340, Part I]

A BILL

To amend the Controlled Substances Act to add gamma hydroxybutyric acid and ketamine to the schedules of controlled substances, to provide for a national awareness campaign, and for other purposes.

OCTOBER 8, 1999

The Committee on the Judiciary discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Union Calendar No. 214

106TH CONGRESS
1ST SESSION

H. R. 2130

[Report No. 106–340, Part I]

To amend the Controlled Substances Act to add gamma hydroxybutyric acid and ketamine to the schedules of controlled substances, to provide for a national awareness campaign, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 10, 1999

Mr. UPTON (for himself, Mr. STUPAK, Ms. JACKSON-LEE of Texas, and Mr. BLILEY) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

SEPTEMBER 27, 1999

Reported from the Committee on Commerce with amendments

[Strike out all after the enacting clause and insert the part printed in italic]

SEPTEMBER 27, 1999

Referral to the Committee on the Judiciary extended for a period ending not later than October 8, 1999

OCTOBER 8, 1999

Additional sponsors: Mr. WAXMAN, Mr. HORN, Mr. HOBSON, Mr. NETHERCUTT, Mr. BASS, Mr. KINGSTON, Mrs. WILSON, Mrs. BONO, Mrs. MINK of Hawaii, Mr. OXLEY, Mr. GONZALEZ, Mr. CAMP, Ms. MCCARTHY of Missouri, Mr. UNDERWOOD, Mr. PRICE of North Carolina, Mrs. MALONEY of New York, Mr. BARRETT of Wisconsin, and Ms. STABENOW

OCTOBER 8, 1999

The Committee on the Judiciary discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on June 10, 1999]

A BILL

To amend the Controlled Substances Act to add gamma hydroxybutyric acid and ketamine to the schedules of controlled substances, to provide for a national awareness campaign, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hillory J. Farias Date-Rape Prevention Drug Act of 1999".

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) Gamma hydroxybutyric acid (also called G, Liquid X, Liquid Ecstasy, Grievous Bodily Harm, Georgia Home Boy, Scoop) has become a significant and growing problem in law enforcement. At least 20 States have scheduled such drug in their drug laws and law enforcement officials have been experiencing an increased presence of the drug in driving under the influence, sexual assault, and overdose cases, especially at night clubs and parties.

(2) A behavioral depressant and a hypnotic, gamma hydroxybutyric acid ("GHB") is being used

in conjunction with alcohol and other drugs with detrimental effects in an increasing number of cases. It is difficult to isolate the impact of such drug's ingestion since it is so typically taken with an ever-changing array of other drugs and especially alcohol, which potentiates its impact.

(3) GHB takes the same path as alcohol, processes via alcohol dehydrogenase, and its symptoms at high levels of intake and as impact builds are comparable to alcohol ingestion/intoxication. Thus, aggression and violence can be expected in some individuals who use such drug.

(4) If taken for human consumption, common industrial chemicals such as gamma butyrolactone and 1.4-butanediol are swiftly converted by the body into GHB. Illicit use of these and other GHB analogues and precursor chemicals is a significant and growing law enforcement problem.

(5) A human pharmaceutical formulation of gamma hydroxybutyric acid is being developed as a treatment for cataplexy, a serious and debilitating disease. Cataplexy, which causes sudden and total loss of muscle control, affects about 65 percent of the estimated 180,000 Americans with narcolepsy, a sleep disorder. People with cataplexy often are unable to

work, drive a car, hold their children or live a normal life.

SEC. 3. ADDITION OF GAMMA HYDROXYBUTYRIC ACID AND KETAMINE TO SCHEDULES OF CONTROLLED SUBSTANCES; GAMMA BUTYROLACTONE AS ADDITIONAL LIST I CHEMICAL.

(a) ADDITION TO SCHEDULE I.—

(1) IN GENERAL.—Section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) is amended by adding at the end of schedule I the following:

"(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following substance having a depressant effect on the central nervous system, or which contains any of their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

"(1) Gamma hydroxybutyric acid.".

(2) SECURITY OF FACILITIES.—For purposes of any requirements that relate to the physical security of registered manufacturers and registered distributors, gamma hydroxybutyric acid and its salts, isomers, and salts of isomers manufactured, distributed, or possessed in accordance with an exemption ap-

proved under section 505(i) of the Federal Food, Drug, and Cosmetic Act shall be treated as a controlled substance in schedule III under section 202(c) of the Controlled Substances Act.

(b) ADDITION TO SCHEDULE III.—Schedule III under section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) is amended in (b)—

(1) by redesignating (4) through (10) as (6) through (12), respectively;

(2) by redesignating (3) as (4);

(3) by inserting after (2) the following:

"(3) Gamma hydroxybutyric acid and its salts, isomers, and salts of isomers contained in a drug product for which an application has been approved under section 505 of the Federal Food, Drug, and Cosmetic Act."; and

(4) by inserting after (4) (as so redesignated) the following:

"(5) Ketamine and its salts, isomers, and salts of isomers.".

(c) ADDITIONAL LIST I CHEMICAL.—Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended—

(1) by redesignating subparagraph (X) as subparagraph (Y); and

(2) by inserting after subparagraph (W) the following subparagraph:

"(X) Gamma butyrolactone.".

(d) RULE OF CONSTRUCTION REGARDING CONTROLLED SUBSTANCE ANALOGUES.—Section 102(32) of the Controlled Substances Act (21 U.S.C. 802(32)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by inserting after subparagraph (A) the following subparagraph:

"(B) The designation of gamma butyrolactone or any other chemical as a listed chemical pursuant to paragraph (34) or (35) does not preclude a finding pursuant to subparagraph (A) of this paragraph that the chemical is a controlled substance analogue.".

(e) PENALTIES REGARDING SCHEDULE I.—

(1) IN GENERAL.—Section 401(b)(1)(C) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(C)) is amended in the first sentence by inserting after "schedule I or II," the following: "gamma hydroxybutyric acid in schedule III,".

(2) CONFORMING AMENDMENT.—Section 401(b)(1)(D) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(D)) is amended by inserting "(other

than gamma hydroxybutyric acid)" after "schedule III".

(f) DISTRIBUTION WITH INTENT TO COMMIT CRIME OF VIOLENCE.—Section 401(b)(7)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(7)(A)) is amended by inserting "or controlled substance analogue" after "distributing a controlled substance".

SEC. 4. AUTHORITY FOR ADDITIONAL REPORTING REQUIREMENTS FOR GAMMA HYDROXYBUTYRIC PRODUCTS IN SCHEDULE III.

Section 307 of the Controlled Substances Act (21 U.S.C. 827) is amended by adding at the end the following:

"(h) In the case of a drug product containing gamma hydroxybutyric acid for which an application has been approved under section 505 of the Federal Food, Drug, and Cosmetic Act, the Attorney General may, in addition to any other requirements that apply under this section with respect to such a drug product, establish any of the following as reporting requirements:

"(1) That every person who is registered as a manufacturer of bulk or dosage form, as a packager, repackager, labeler, relabeler, or distributor shall report acquisition and distribution transactions quarterly, not later than the 15th day of the month suc-

ceeding the quarter for which the report is submitted, and annually report end-of-year inventories.

"(2) That all annual inventory reports shall be filed no later than January 15 of the year following that for which the report is submitted and include data on the stocks of the drug product, drug substance, bulk drug, and dosage forms on hand as of the close of business December 31, indicating whether materials reported are in storage or in process of manufacturing.

"(3) That every person who is registered as a manufacturer of bulk or dosage form shall report all manufacturing transactions both inventory increases, including purchases, transfers, and returns, and reductions from inventory, including sales, transfers, theft, destruction, and seizure, and shall provide data on material manufactured, manufactured from other material, use in manufacturing other material, and use in manufacturing dosage forms.

"(4) That all reports under this section must include the registered person's registration number as well as the registration numbers, names, and other identifying information of vendors, suppliers, and customers, sufficient to allow the Attorney General to track the receipt and distribution of the drug.

"(5) That each dispensing practitioner shall maintain for each prescription the name of the prescribing practitioner, the prescribing practitioner's Federal and State registration numbers, with the expiration dates of these registrations, verification that the prescribing practitioner possesses the appropriate registration to prescribe this controlled substance, the patient's name and address, the name of the patient's insurance provider and documentation by a medical practitioner licensed and registered to prescribe the drug of the patient's medical need for the drug. Such information shall be available for inspection and copying by the Attorney General.

"(6) That section 310(b)(3) (relating to mail order reporting) applies with respect to gamma hydroxybutyric acid to the same extent and in the same manner as such section applies with respect to the chemicals and drug products specified in subparagraph (A)(i) of such section.".

SEC. 5. DEVELOPMENT OF FORENSIC FIELD TESTS FOR GAMMA HYDROXYBUTYRIC ACID.

The Attorney General shall make a grant for the development of forensic field tests to assist law enforcement officials in detecting the presence of gamma hydroxybutyric acid and related substances.

SEC. 6. ANNUAL REPORT REGARDING DATE-RAPE DRUGS; NATIONAL AWARENESS CAMPAIGN.

(a) ANNUAL REPORT.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall periodically submit to the Congress reports each of which provides an estimate of the number of incidents of the abuse of date-rape drugs (as defined in subsection (c)) that occurred during the most recent one-year period for which data are available. The first such report shall be submitted not later than January 15, 2000, and subsequent reports shall be submitted annually thereafter.

(b) NATIONAL AWARENESS CAMPAIGN.—

(1) DEVELOPMENT OF PLAN; RECOMMENDATIONS OF ADVISORY COMMITTEE.—

(A) IN GENERAL.—The Secretary, in consultation with the Attorney General, shall develop a plan for carrying out a national campaign to educate individuals described in subparagraph (B) on the following:

(i) The dangers of date-rape drugs.

(ii) The applicability of the Controlled Substances Act to such drugs, including penalties under such Act.

(iii) Recognizing the symptoms that indicate an individual may be a victim of

such drugs, including symptoms with respect to sexual assault.

(iv) Appropriately responding when an individual has such symptoms.

(B) INTENDED POPULATION.—The individuals referred to in subparagraph (A) are young adults, youths, law enforcement personnel, educators, school nurses, counselors of rape victims, and emergency room personnel in hospitals.

(C) ADVISORY COMMITTEE.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall establish an advisory committee to make recommendations to the Secretary regarding the plan under subparagraph (A). The committee shall be composed of individuals who collectively possess expertise on the effects of date-rape drugs and on detecting and controlling the drugs.

(2) IMPLEMENTATION OF PLAN.—Not later than 180 days after the date on which the advisory committee under paragraph (1) is established, the Secretary, in consultation with the Attorney General, shall commence carrying out the national campaign under such paragraph in accordance with the plan developed under such paragraph. The campaign may

be carried out directly by the Secretary and through grants and contracts.

(3) EVALUATION BY GENERAL ACCOUNTING OFFICE.—Not later than two years after the date on which the national campaign under paragraph (1) is commenced, the Comptroller General of the United States shall submit to the Congress an evaluation of the effects with respect to date-rape drugs of the national campaign.

(c) DEFINITION.—For purposes of this section, the term "date-rape drugs" means gamma hydroxybutyric acid and its salts, isomers, and salts of isomers and such other drugs or substances as the Secretary, after consultation with the Attorney General, determines to be appropriate.

Amend the title so as to read: "A bill to amend the Controlled Substances Act to add gamma hydroxybutyric acid and ketamine to the schedules of controlled substances, to provide for a national awareness campaign, and for other purposes.".